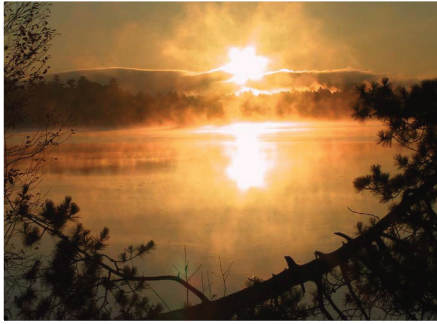


Massachusetts Department of Environmental Protection

ENFORCEMENT

2007: Enforcement Results, A Pattern of Success



The Massachusetts Department of Environmental Protection ("MassDEP" or "the Department") continued to achieve impressive results through its use of targeted inspections and innovative compliance and enforcement strategies. An obvious benchmark of MassDEP's success is the more than \$5,400,000 in penalties assessed in fiscal year 2007 - an amount consistent with the Department's five-year average of more than \$5 million.

Less obvious, but just as important, are the "real" environmental benefits, like acres of wetlands restored or tons of toxics removed, that were achieved as a result of these focused and strategic enforcement initiatives. On that note, MassDEP recently amended its policy on Supplemental Environmen-

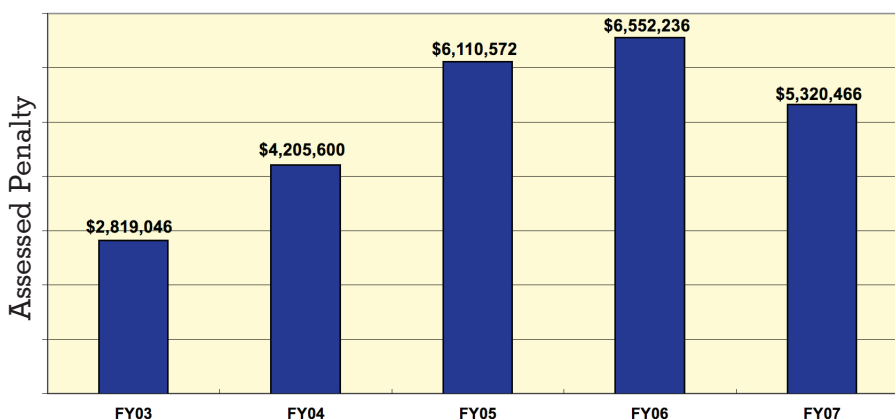
tal Projects ("SEPs"). These projects, some of which are described in this brochure, further MassDEP's goal of obtaining the best overall environmental benefit through enforcement.

Moving into 2008, MassDEP will continue to identify, develop, and implement enforcement-related initiatives that will result in appropriate penalty dollars, increased environmental benefit, and enhanced environmental protection. The result of this consistent and targeted enforcement, coupled with the "hands on" presence of field inspectors, includes both a return to compliance and, in some cases, action on the part of a regulated person that is 'beyond compliance.' Indeed, some businesses have used an enforcement situation as a springboard

Environmental Gains Through Enforcement

- 640,000 pounds of pollutants - removed from ambient air
- 54,000 pounds of illegally disposed solid waste - removed from land
- 500,000 pounds of hazardous waste - brought under control and properly managed
- 50,000 gallons of industrial wastewater - no longer threatening waters of the Commonwealth

Total Assessed Administrative Penalties by Fiscal Year



from which to launch and implement progressive environmental projects, programs, and retrofits that go well beyond that which would otherwise be needed to comply with applicable regulations. Examples include a tire recycler that, by retrofitting its facility, reduced annual nitrous oxide emissions by over 100 tons, and a sand and gravel company that, in addition to standard restoration of altered resource areas, created a wildlife corridor along adjacent riverfront and floodplain.

'07 TARGETED INITIATIVES – RELEVANT AND EFFECTIVE

Each year, MassDEP identifies a set of targeted compliance and enforcement initiatives. While many such initiatives result in significant penalties, they are also focused on and result in significant environmental benefits in the form of, for example, cleaner air, cleaner water, and cleaned up contaminated sites.

Expanding the 'Wetlands Loss Initiative'

The Wetlands Loss Initiative was started three years ago as a targeted effort to inventory wetlands loss and to identify appropriate enforcement actions. Since this project was launched, MassDEP's approach to strategic wetland enforcement has become increasingly sophisticated and exact. Using aerial photographs, historical maps, and state-of-the art computer technology, MassDEP has an im-



proved and powerful method for prioritizing wetlands enforcement based on impact and science.

Over the course of FY 2007, MassDEP used the method described above to bring a dozen new and high level "wetlands loss" enforcement cases. Many others are still under investigation. These 12 cases alone will result in restoration of nearly 245,000 square feet of valuable wetlands and the assessment of over \$185,000 in penalties. When added to 30 other high level enforcement cases successfully brought since the beginning of this initiative, MassDEP has assessed nearly \$2 million in penalties and has enabled the restoration of over 54 acres of wetlands. More is coming.

Reducing Air Pollution and Increasing Compliance

Approximately 3,000 gasoline stations in the Commonwealth are subject to strict requirements regarding vapor recovery. In order to address violations in an even-handed manner, and to ensure maximum compliance within this group of businesses, MassDEP developed a comprehensive "Vapor Recovery Initiative." This initiative, which has been fine tuned since it

began, several years ago, involves identifying stations, reminding them on an annual basis of their obligations under the air regulations, requiring annual self-certification from each of them, and assessing penalties for those entities that still remain in non-compliant status. The low penalty dollars that have been realized through this initiative are a measure of success because in 2007, through full and voluntary compliance, the overwhelming majority of stations avoided any penalty assessment. Indeed, the 2007 compliance rate for this sector was 98%, a tremendous jump from the 54% compliance rate that was initially identified ten years ago when MassDEP selected and inspected a representative sample of stations. This creative, aggressive and targeted enforcement initiative ultimately translates into cleaner air - and a level playing field for these kinds of businesses.



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BEYOND PENALTY DOLLARS - MEASURING RESULTS IN TERMS OF ENVIRONMENTAL GAINS

Penalty dollars, compliance rates, and successful Supplemental Environmental Projects ("SEPs") (discussed below) are all obvious measures of enforcement success. These measures, standing alone, however, do not fully capture the overall effect of a strategic compliance and enforcement program. In order to gain a more "three dimensional view," MassDEP looks closely at the environmental benefits that result from targeted enforcement. Such benefits include, for example, gallons of drinking water made safe, tons of

contaminated soils moved out of our neighborhoods, and cleaner air resulting from significant reductions in emissions of harmful air pollutants. Some of the environmental benefits described below are indicative of our continued commitment to a compliance and enforcement mission that translates into a cleaner and healthier environment for us all.

Across Sectors - Reducing Harmful Discharges and Emissions

Enforcement tools that can be used to prevent pollution include requiring best management practices for hazardous waste, demanding the maintenance of strict water quality standards, and ordering the removal of hazardous materials from soils. In addition to the benefits gained from routine, strict compliance, enforcement cases in 2007 yielded a reduction of

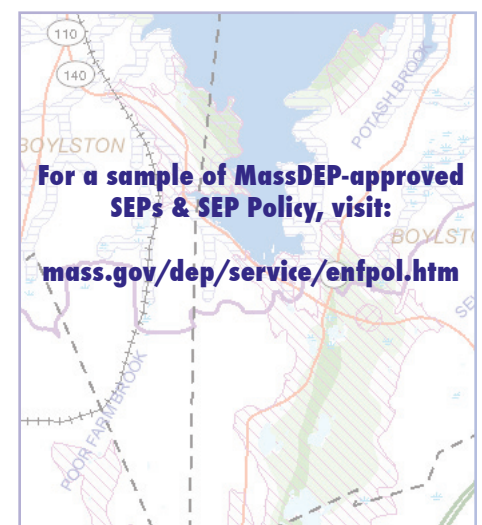
640,000 pounds of ozone precursors, particulate matter, carbon monoxide, sulfur dioxide, and toxic compounds into the ambient air. In addition, 54,000 pounds of illegally disposed solid waste were removed, thereby preventing contamination and threats to soil and groundwater. Also, 500,000 pounds of hazardous wastes, which posed a threat to human health, safety and the environment, were properly managed and controlled. And, 50,000 gallons of industrial wastewater, improper discharge of which could have adversely impacted surface and ground water quality, was strictly held to applicable regulatory monitoring and reporting requirements. This wastewater management resulted in improvement to both water quality and to facility operating standards. Across all regulated sectors, and across the Commonwealth, MassDEP is working to prevent and to reduce pollution.



SUPPLEMENTAL ENVIRONMENTAL PROJECTS PRODUCE TANGIBLE ENVIRONMENTAL BENEFITS

Consistent with MassDEP's goal to maximize the environmental benefits that can be gained through enforcement, MassDEP will consider a SEP as part of a negotiated settlement. Appropriate SEPs can sometimes dovetail with ongoing MassDEP initiatives. For example, MassDEP is committed to encouraging energy conservation, including the promotion of green building and the use of renewable energy sources, and we welcome SEP proposals that will further this goal. In the right case, where the

SEP criteria are met and there is an adequate nexus to the underlying violation, and where other criteria in the SEP policy are met, MassDEP can and often does approve a SEP. The benefit is twofold - enhanced environmental protection for the Commonwealth and penalty mitigation for the SEP proponent. Visit the link identified in the block to the right to see some examples of MassDEP-approved SEPs from 2007 and to read our new amended SEP policy.



2007 SEP SAMPLER

Sand & Gravel Co. Pays for Enhanced Drinking Water & Wetlands Protection

R.J. McDonald operates a sand and gravel company in Hardwick that is adjacent to the Ware River. The company was extracting water from the river in excess of its Water Management Act permit, and its mining operation was encroaching into wetland resource areas and into protected Zone 1 wellhead areas (zoned for drinking water). In addition to agreeing to pay an administrative penalty (\$24,000 with \$3,000 suspended upon compliance with terms of the Consent Order), McDonald also agreed to restore over 3,000 square feet of altered wetlands, and reconfigure operational activities away from the Zone 1. In addition, and in mitigation of the penalty, McDonald proposed a SEP, valued at \$15,000, which was approved by MassDEP. It included the development of a spill prevention plan to provide added Zone 1 protection, creation of a 15-foot wildlife corridor in the riverfront area, and construction of a berm to enhance habitat protection.

Landfill Company Jumpstarts Auto Recycling

South Hadley Landfill LLC ("the Landfill Company"), which manages the landfill operations in South Hadley, entered into an Administrative Consent Order with Penalty ("ACOP") for alleged violations of solid waste and air pollution control regulations. In addition to the \$9,000 penalty assessed against it, South Hadley Landfill LLC proposed a SEP valued at \$27,000. This SEP involves a project, to be administered by the Pioneer Valley Planning Commission Voluntary Vehicle Recycling Program, implementation of which will improve both air quality and water quality by removing older vehicles from the roads and by preventing groundwater contamination from abandoned vehicles. The program also provides vehicle owners up to \$500 to "buy back" registered and operable cars, vans, and light trucks older than 1995 that have failed the state emissions test. Individuals who own inoperable, unregistered vehicles can obtain free towing and a \$50 incentive for proper disposal of vehicles.

Commercial Realty Company Funds Asbestos Removal In Historic Building

Hopedale Industrial Center, Inc. ("Hopedale Industrial"), a commercial real estate company in Hopedale MA, was assessed a \$50,000 penalty for actions by its contractor involving the improper removal, handling, and storage of asbestos-containing material at an old mill building in Hopedale that is owned by Hopedale Industrial. A portion of the penalty was suspended upon full compliance with all conditions of the Administrative Consent Order. In addition, MassDEP approved a SEP proposed by Hopedale Industrial that entailed the establishment of a \$7,500 escrow fund to pay for a licensed asbestos survey and licensed asbestos removal at "The Little Red House", a historic building owned by the Town of Hopedale and managed by the Hopedale Historical Association.

LOOKING AHEAD: HIGHLIGHTS FOR 2008

Moving into 2008, MassDEP will continue its strong enforcement trends by implementing focused strategic enforcement and compliance initiatives. The challenge with establishing a good enforcement record is recognizing that, if it is truly effective, the need for individual enforcement action will decrease because compliance will improve. In 2008, we will work to confirm our belief that we are seeing better compliance across many sectors, while still keeping a strong enforcement presence. We will continue to implement consistent and targeted enforcement action, like that exemplified in the Stage 2 Vapor Recovery Initiative described above, and will continue to assess and collect appropriate penalties. Our efforts will also include:

Getting to the Other Side of the Story

Where parties' compliance improves as a result of enforcement, we will tell that story to leverage competition and to improve environmental performance. Examples where companies have already 'stepped up to the plate include a tire recycler that, by retrofitting its facility, reduced nitrous oxide emission by over 100 tons, and a sand and gravel company that, in addition to standard restoration of altered resource areas, created a wildlife corridor along adjacent riverfront and floodplain.

Expand Education, Outreach, and Compliance Assistance

As part of its compliance and enforcement activities, MassDEP has long provided critically needed technical assistance to municipalities, businesses, and citizens. MassDEP will build on this existing foundation with improved education, assistance, and incentive-based funding to address today's challenges. We will increase targeted outreach, similar to that which we sponsored for the coating industry, where comprehensive industry-wide training and assistance resulted from a single enforcement action. Similarly, we will forge new partnerships and use new technologies and new ideas to help businesses stay in compliance with environmental protection requirements and regulations.



Learn more about MassDEP's compliance & enforcement efforts on MassDEP's Web site:

www.mass.gov/dep/service/enfpubs.htm